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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 181022969-9377-02]

RIN 0648-BI55

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. In addition, this final rule implements portions of the Catch Sharing Plan and management measures that are not implemented through the International Pacific Halibut Commission. These measures include the recreational fishery seasons and management measures for Area 2A. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: This rule is effective on *[insert date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way, NE, Seattle, WA 98115. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287. Electronic copies of the Regulatory Impact Review (RIR)

and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by contacting Kathryn Blair, phone: 503-231-6858, email: kathryn.blair@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Kathryn Blair, phone: 503-231-6858, fax: 503-231-6893, or e-mail: kathryn.blair@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982 gives the Secretary of Commerce responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. 16 U.S.C. 773-773k. The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act 16 U.S.C. 773(c). The Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC) to govern the Pacific halibut catch in their corresponding U.S. Convention waters. 16 U.S.C. 773c(c).

At its annual meeting in February 2019, the IPHC recommended an Area 2A catch limit of 1,500,000 lb (680.4 metric tons (mt)) for 2019. This catch limit is derived from the total constant exploitation yield (TCEY) of 1,650,000 lb (748.4 mt), which includes commercial discards and bycatch estimates calculated using a formula developed by the IPHC. The table below shows the fishery and subarea allocations resulting from the framework described in the 2019 Area 2A Catch Sharing Plan.

Table 1 -- Area 2A catch limit and fishery subarea allocations for 2019

| | Pounds | Metric Tons |
|---------------------------|-----------|-------------|
| Area 2A TCEY | 1,650,000 | 748.4 |
| Area 2A Catch Limit | 1,500,000 | 680.4 |
| Tribal commercial fishery | 497,000 | 225.4 |

| | | |
|---|---------|-------|
| Incidental commercial catch during sablefish fishery | 70,000 | 31.8 |
| Non-tribal directed commercial fishery | 254,426 | 115.4 |
| Incidental commercial catch during salmon troll fishery | 44,899 | 20.4 |
| Washington recreational fishery - Puget Sound | 77,550 | 35.2 |
| Washington recreational fishery - North Coast | 128,187 | 58.1 |
| Washington recreational fishery - South Coast | 62,896 | 28.5 |
| Columbia River recreational fishery | 15,127 | 6.9 |
| Oregon recreational fishery - Central Oregon | 271,592 | 123.2 |
| Oregon recreational fishery - Southern Oregon | 11,322 | 5.1 |
| California recreational fishery | 39,000 | 17.7 |

The Area 2A catch limit, tribal commercial fishery allocation, and commercial fishery allocations are adopted by the IPHC and were published in the *Federal Register* on March 14, 2019 (84 FR 9243) after acceptance by the Secretary of State in accordance with 50 CFR 300.62.

Since 1988, NMFS has implemented annual Catch Sharing Plans that allocate the IPHC regulatory Area 2A Pacific halibut catch limit between treaty Indian and non-Indian harvesters, and among non-Indian commercial and recreational (sport) fisheries. The Pacific Fishery Management Council (Council) develops Catch Sharing Plans in accordance with the Halibut Act. In 1995, the Council recommended, and NMFS approved and implemented a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been implementing adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries. While the full Catch Sharing Plan is not published in the *Federal Register*, it is made available on the Council and NMFS websites.

This rule adopts the Council's recommended changes to the Catch Sharing Plan for IPHC regulatory Area 2A, which affect only the recreational fishery. In addition, this rule revises the recreational Pacific halibut fishery management measures, such as season dates and bag limits, set in NMFS regulations and described in the proposed rule (84 FR 9281; March 14, 2019).

These management measures are detailed in the Council's recommended Catch Sharing Plan and were developed through the Council's public process. This rule finalizes 2019 dates for the recreational fisheries consistent with the Council's recommendations as well as recommendations from Oregon, Washington, and California that were received either during the Council process or during the comment period for the proposed rule.

For 2019, the Council recommended minor modifications to recreational (sport) fisheries to better match the needs of the fishery. On March 14, 2019, NMFS published a proposed rule to approve the Council's recommended changes to the 2019 Catch Sharing Plan and recreational management measures for Area 2A (84 FR 9281). This final rule includes these components of the proposed rule. The Catch Sharing Plan changes provide flexibility to the state recreational fishery managers for opening the South Coast nearshore fishery and for extending the Columbia River fishery into the summer by both modifying the number of open days and the process for setting open days.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, WA

The 2019 Catch Sharing Plan allows incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, when the Washington recreational catch limit is 214,110 lb (101.7 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available. The Area 2A catch limit for 2019 is great enough to allow 70,000 lb (31.8 mt) for incidental halibut retention in the sablefish primary fishery, which occurs when the catch limit is 1,500,000 lb (680.4 mt) or more. Incidental halibut landing restrictions in the sablefish fishery are recommended by the Council and implemented in the groundfish regulations at 50 CFR 660.231(b)(3)(iv).

2019 Recreational Fishery Management Measures

The annual domestic management measures are published each year through a final rule under NMFS' authority to implement the Halibut Convention. 50 CFR 300.62. As provided in the Halibut Act at 16 U.S.C. 773b, the Secretary of State, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, regulations recommended by the IPHC in accordance with the Convention. For the 2019 fishing season, the final rule for the commercial fisheries and IPHC regulations was published on March 14, 2019 (84 FR 9243). The section numbers below correspond to IPHC regulation sections in the March 14, 2019, final rule.

The recreational fishing regulations for Area 2A, included in section 27 (referring to the relevant section of the IPHC regulations) below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Council and promulgated by the United States under the Halibut Act.

This rule adds the following text to Section 27 of the annual domestic management measures and paragraph (8) of the 2019 IPHC regulations, "Sport Fishing for Pacific Halibut—IPHC Regulatory Area 2A":

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions consistent with 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is 77,550 lb (35.2 mt).

(i) The fishing seasons are:

(A) Fishing is open May 2, 4, 9, 11, 18, 24, and 26; June 6, 8, 20, and 22, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.) (North Coast subarea), is 128,187 lb (58.1 mt).

(i) The fishing seasons are:

(A) Fishing is open May 2, 4, 9, 11, 18, 24, and 26; June 6, 8, 20, and 22, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.)(South Coast subarea), is 62,896 lb (28.5 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

- (1) 47°31.70' N. lat, 124°37.03' W. long;
- (2) 47°25.67' N. lat, 124°34.79' W. long;
- (3) 47°12.82' N. lat, 124°29.12' W. long;
- (4) 46°58.00' N. lat, 124°24.24' W. long.

The primary fishery season dates are May 2, 5, 9, 12, and 24, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. Any closure will be announced on the NMFS hotline at 800-662-9825. If sufficient quota remains, the fishing season in the nearshore area commences the Saturday subsequent to the closure of the primary fishery, and continues 7 days per week until 62,896 lb (28.5 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS.

- (ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.)(Columbia River subarea), is 15,127 lb (6.9 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 lb (0.23 mt) of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17' N. lat., 124°15.88' W. long.) to the Columbia River (46°16.00' N. lat., 124°15.88' W. long.) by connecting the following coordinates in Washington 46°38.17' N. lat., 124°15.88' W. long. 46°16.00' N. lat., 124°15.88' W. long. and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 6, and continues on Monday, Tuesday, and Wednesday each week until the

nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season is open May 2, 5, 9, 12, 24, and 26. If sufficient quota remains after May 26, the Columbia River subarea would be open two days per week (Thursday and Sunday) until 15,127 lb (6.9 mt) are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, and lingcod caught north of the Washington-Oregon border during the recreational halibut fishery, when allowed by Pacific Coast groundfish regulations, during days open to the all-depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.) (Oregon Central Coast subarea), is 271,592 lb (123.2 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences June 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 32,591 lb (14.8 mt), or any inseason revised subquota, is estimated to have been taken and the season is closed

by the Commission, or October 31, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open May 9, 10, 11; 16, 17, 18; 23, 24, 25; 30, 31, June 1; and 6, 7, 8. The allocation to the all-depth fishery is 171,103 lb (77.6 mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open June 20, 21, 22; July 4, 5, 6; and July 18, 19, 20. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(C) The third season (summer season), which is for the “all-depth” fishery, will be August 2, 3; 16, 17; 30, 31; September 13, 14; 27, 28; October 11, 12; and 25, 26; and will continue until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, Oregon, are estimated to have been taken and the area is closed by the Commission. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 2 and 3, and ending when there is insufficient quota remaining, whichever is earlier. If after September 3, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 6 and 7, and ending October 31. After September 3, the bag limit may be increased to two fish of any size per person, per day.

NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, no groundfish may be taken and retained, possessed or landed, when halibut are on board the vessel, except sablefish, Pacific cod, and flatfish species, when allowed by groundfish regulations, if halibut are on board the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on board the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.)(Southern Oregon subarea) is 11,322 lb (5.1 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 39,000 lb (17.7 mt).

(i) The fishing season will be open May 1 through October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

Comments and Responses

NMFS accepted public comments on the Council's recommended modifications to the 2019 Area 2A Catch Sharing Plan and the resulting proposed domestic fishing regulations through March 29, 2019. We received two comments from state agencies— the California Department of Fish and Wildlife (CDFW) and the Washington Department of Fish and Wildlife (WDFW).

Comment 1: CDFW submitted a comment recommending final recreational fishing season dates for the 2019 season. CDFW hosted an online survey following the IPHC annual meeting. Based on public comments received on California halibut fisheries and fishing performance in recent years, CDFW recommended season dates of May 1-October 31, or until quota has been attained, whichever comes first.

Response: NMFS concurs that the CDFW-recommended season dates are appropriate. The Area 2A catch limit is significantly higher than in the recent past and the season structure recommended by CDFW, which removes closed periods that were in effect in past years, should allow California to fully utilize its allocation. NMFS has updated sport fishery season dates off of California in this final rule.

Comment 2: WDFW submitted a comment suggesting a revision to the Catch Sharing Plan. WDFW provided its preferred season dates and suggested Catch Sharing Plan changes at the November Council meeting, prior to the IPHC's recommended Area 2A catch limit. The IPHC agreed on an Area 2A catch limit in early February 2019 that was higher than anticipated in November 2018, when the Council recommended Catch Sharing Plan changes and season dates. WDFW commented that the 2019 FCEY is 26 percent higher than in 2018, and that it anticipates needing more than two fishing days per week, as set forth under the Catch Sharing Plan, to ensure that sport fishery participants can catch the entire allocation. To allow for the additional fishing days, WDFW suggests adjusting the Catch Sharing Plan language. The Catch Sharing Plan includes language for recreational fisheries in Washington subareas that states "seasons...may be open up to two days per week which may include one weekday and one weekend day." WDFW suggested removing the language specifying two days per week from the Catch Sharing Plan to provide flexibility for additional fishing days.

Response: The Catch Sharing Plan is a framework that details allocations and season structure. The Catch Sharing Plan forms the basis for season dates as recommended by the states after discussion with stakeholders, and allocations resulting from the 2A catch limit. It is a document created by the Council and is not subject to NMFS approval. NMFS may implement the Catch Sharing Plan through its regulations, but lacks authority to alter or amend the Council's approved Plan.

WDFW's comment requests that NMFS revise the Catch Sharing Plan to remove language that allows for a maximum of two fishing days per week in the Washington subareas. NMFS is unable to revise the Catch Sharing Plan, but does have the authority to make revisions to the regulations under flexible inseason management provisions, described in the Catch Sharing Plan, and implemented in regulation at 50 CFR 300.63.

Changes from the Proposed Rule

As described in the response to Comment 1 above, NMFS changed season dates off of California in this final rule.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Halibut Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act. This action is consistent with the Secretary's authority under the Halibut Act.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

This final rule does not contain policies with federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make this rule effective on *[insert date of publication in the FEDERAL REGISTER]*, in time for the start of recreational Pacific halibut fisheries on May 1, 2019, pursuant to 5 U.S.C. 553(d)(3). The 2019 Catch Sharing Plan provides the framework for the annual management measures and subarea allocations based on the 2019 Area 2A catch limit for Pacific halibut. Some recreational fishery subareas open May 1, 2019, and this rule implements subarea allocations for those fisheries. Additionally, this rule implements a change to the Catch Sharing Plan season structure for the Washington South Coast and Columbia River subareas, which start in early May.

The Council's 2019 Catch Sharing Plan approved in this rule includes changes that respond to the needs of the fisheries in each state, including fisheries that begin in early May. The recreational fishery subarea allocations for 2019 are 26 percent higher than in 2018, and are implemented through this rule. The recreational Pacific halibut fisheries have high participation, and some subareas close months before the end of the season due to quota attainment. Without the higher allocation, fishing opportunity is lost, potentially causing economic harm to communities at sport fishing ports. Additionally, the season dates in this rule are specific to 2019 according to the Catch Sharing Plan framework. Without the publication of this rule, the 2018 season dates would remain in place, and would not occur on the days of the week specified in the Catch Sharing Plan. This year, the Council recommended modifying the season dates for the

Columbia River subarea from three to two days per week, and this rule is necessary to implement that change; otherwise the fishery, which is scheduled to begin May 2, may close sooner than intended. The season lasted only five days last year, and if the 2018 season remained in place for 2019, the fishery would likely conclude before the third week in May.

Therefore, allowing the 2018 Catch Sharing Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2019. A delay in effectiveness could cause economic harm to the associated fishing communities by reducing fishing opportunity at the start of the fishing year. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make this rule effective upon publication in the *Federal Register*.

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604, requires Federal agencies to prepare a Final Regulatory Flexibility Analysis (FRFA) for each final rule. The FRFA describes the economic impact of this action on small entities. The FRFA includes a summary of significant issues raised by public comments, the analyses contained in the accompanying Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA), the IRFA summary in the proposed rule, as well as the summary provided below. A statement of the necessity for, and the objectives of this action are contained in proposed rule and in the preamble to this final rule, and is not repeated here.

A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

There were no issues raised about the IRFA in the public comments.

The response of the agency to any comments filed by the Chief Counsel for Advocacy in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments.

There were no comments filed by the Chief Counsel for Advocacy.

A description and, where feasible, estimate of the number of small entities to which the final rule applies.

This action makes changes only to the sport fishing sector of the halibut fishery. Therefore, this rule may affect some charterboat operations in Area 2A. Previous analyses determined that charterboats are small businesses. *See* 77 FR 5477 (Feb. 3, 2012) and 76 FR 2876 (Jan. 18, 2011). Charter fishing operations are classified under NAICS code 487210, with a corresponding SBA size standard not in excess of \$7.5 million in annual receipts. No commercial fishing entities are directly affected by this rule.

In 2018, the IPHC issued 133 licenses to the charterboat fleet. Recent information on charterboat activity is not available, but prior analysis indicated that 60 percent of the IPHC charterboat license holders (around 80 vessels) may be affected by these regulations. Private vessels used for recreational fishing are not businesses, and are therefore not subject to the RFA.

Reporting and recordkeeping requirements.

The changes to the Catch Sharing Plan and domestic management measures do not include any new reporting or recordkeeping requirements.

Description and estimate of economic effects on entities, by entity size and industry.

The major effect of halibut management on small entities will be from the catch limit decisions made by the IPHC, a decision independent from this action. This action only makes

minor changes to the Catch Sharing Plan to provide increased recreational opportunities under the allocations that result from the Area 2A catch limit. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionately negative effect on small entities versus large entities. The changes to the plan are considered minor, with minimal economic effects.

An explanation of the criteria used to evaluate whether the rule would impose “significant” economic effects.

The recreational management measures implement the Catch Sharing Plan by managing the fisheries to meet the differing fishery needs of the various areas along the coast according to the Catch Sharing Plan’s objectives. These changes were uncontroversial throughout the Council’s public process and are considered minor because the timing and level of participation are not expected to change. The changes to the Catch Sharing Plan are not expected to have a significant economic impact on a substantial number of small entities.

An explanation of the criteria used to evaluate whether the rule would impose effects on “a substantial number” of small entities.

Participants in the recreational Washington and Columbia River subareas will be impacted by these changes, and all of the entities are considered small. However, the effects of the rule would be minimal as described above. In 2017, the average number of participants in the Columbia River subarea was 73 (private vessels and charterboats are not differentiated), with the highest number on the first two days and last day. Participation in 2019 is expected to be similar.

A description of, and an explanation of the basis for, assumptions used.

In the description of the entities affected, estimates of the number of charterboats were based off a 2004 report by the Pacific States Marine Fisheries Commission. This report has not been updated and the number of entities is assumed to be similar.

Relevant Federal rules that may duplicate, overlap or conflict with the final rule.

There are no relevant federal rules that may duplicate, overlap, or conflict with this action.

A description of any significant alternatives to the final rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the action on small entities.

There were no significant alternatives to the final rule that would minimize any significant impact on small entities. The minor changes, including updates to recreational fishery season dates, removing the set-aside for the nearshore fishery in the Washington South Coast subarea, and modifying the number of open days and the process for setting open days in the Columbia River subarea, were proposed by stakeholders and recommended by the Council to address the needs of the fishery. In developing the minor changes to the Plan that it recommended to NMFS, the Council considered and accepted public comment on alternatives. In large part, these included “status quo” and “action” alternatives, where “status quo” represented the 2018 Plan. Removing the set-aside in the nearshore fishery is not expected to impact the fishery, since the South Coast primary fishery has exceeded its sub-allocation in previous years, and the nearshore fishery has remained closed. Reducing the number of open days in the Columbia River subarea from three open days (status quo – open Thursday, Friday, and Sunday), to two open days (open a combination of Thursday, Friday, or Sunday), is expected to allow the season to stay open through the summer. Allowing the season to remain open for

three days could result in the season ending at an earlier date, which would ultimately decrease sport fishing opportunities. The changes to the Catch Sharing Plan are expected to slightly increase fishing opportunities in some areas and at some times and to slightly decrease fishing opportunities in other areas and at other times. None of these changes are controversial and none are expected to result in substantial environmental or economic impacts. These actions are intended to enhance the conservation of Pacific halibut and to provide angler opportunity where available. Because the goal of the action is to maximize angler participation, and thus to maximize the economic benefits of the fishery, NMFS did not analyze alternatives to the above changes, other than the Council-proposed changes and the status quo, for purposes of the FRFA. Effects of the status quo and the changes in this final rule are similar, because the changes to the Catch Sharing Plan for 2019 are not substantially different from the 2018 Plan. The changes to the Plan are not expected to have a significant economic impact.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a public notice to fishery participants that also serves as a small entity compliance guide (guide) was prepared. Copies of this final rule are available from the West Coast Regional Office, and the guide will be sent to all stakeholders on the email listserv for the groundfish fishery and posted to the West Coast groundfish and halibut websites. The guide and this final rule will be available upon request from the West Coast Regional Office.

A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the Catch Sharing Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

Dated: April 23, 2019.

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